

4. Defendant John Does 1-10 are fictitious parties who are agents of Defendant Red Bank and/or other officers acting under the color of law, in their individual and official capacities.

JURISDICTION AND VENUE

5. The Court has jurisdiction over the subject matter of this Complaint pursuant to 28 U.S.C. § 1331 under the Constitution, laws and treaties of the United States. This Court also has subject matter jurisdiction pursuant to 28 U.S.C. § 1343. Lastly, this Court has supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367.

6. Venue is proper here pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to these claims occurred in this district and personal jurisdiction may be exercised by this Court over the Defendants in this District.

ALLEGATIONS COMMON TO ALL COUNTS

7. On or about April 8, 2013, Officer Doremus stopped Mr. Carter's vehicle while Mr. Carter was parked alongside a curb in Red Bank Borough, New Jersey.

8. Officer Doremus had no lawful basis to stop Mr. Carter.

9. As a result of this vehicle stop, Officer Doremus issued criminal summons against Plaintiff charging Mr. Carter with failing to possess his driver's license, vehicle registration and insurance identification card, N.J.S.A. 39:3-29, following too closely, N.J.S.A. 39:4-89, failing to properly signal, N.J.S.A. 39:4-126, and obstructing the administration of the law in violation of N.J.S.A. 2C:29-1(a) (the "Charges").

10. Mr. Carter was arrested and transported to the Red Bank police station. He was later processed and released.

11. Officer Doremus prepared a report that was false and/or not in good faith stating that Mr. Carter followed too closely and Mr. Carter failed to use a turn signal, among other things.

12. Officer Doremus stated in his report:

At approximately 1135hrs I was traveling west bound on Monmouth St. approaching Shrewsbury Ave. I was traveling behind a black dodge four door vehicle that was also traveling west on Monmouth St. in the area of Shrewsbury Ave. I then observed the vehicle approach Shrewsbury Ave. and make a left hand turn traveling south on Shrewsbury Ave. I observed the vehicle accelerate at a high rate of speed and quickly close the distance on the vehicle in front of it. I observed the accused vehicle traveling at an unsafe distance for approximately sixty five feet then abruptly pulled to the side of the road without utilizing a turn signal. I executed a motor vehicle stop in the area of 112 Shrewsbury Ave. due to the observations observed.

13. Defendant Red Bank prosecuted the Charges against Mr. Carter.

14. Officer Doremus testified against Mr. Carter in the municipal court proceeding in support of the Charges.

15. Officer Doremus stated that he stopped Mr. Carter's vehicle because Mr. Carter followed too close to the vehicle in front of his car and failed to use a turn signal.

16. In fact, Officer Doremus could not have seen how closely Mr. Carter was to the vehicle in front of his car.

17. In addition, Officer Doremus could not have seen whether Mr. Carter used a turn signal or not.

18. With respect to Mr. Carter's alleged tailgating, Officer Doremus' observations could not have been made and, in fact, were not made.

19. The municipal court determined that Officer Doremus could not have made such an observation. The Superior Court, in the trial de novo of the matter, reaffirmed the municipal court's finding.

20. Similarly, with respect to Mr. Carter's alleged failure to signal right in the course of lawfully parking his vehicle on the right side of the road, Officer Doremus had no vantage point to make any such observation and did not, in fact, made any such observation.

21. The Municipal Court declined to convict Mr. Carter based on the facts articulated by Officer Doremus in his affidavit of probable cause.¹

22. At the conclusion of this municipal court proceeding, Defendant Red Bank acquitted Mr. Carter of following too closely and found Mr. Carter guilty of the remainder of the Charges.

23. Mr. Carter appealed the finding of the Red Bank municipal court.

24. Mr. Carter then appealed to the Superior Court of New Jersey, Law Division, which affirmed the municipal court.

25. Upon further appeal to the Appellate Division, the Appellate Division held that Officer Doremus' stop of Plaintiff's vehicle was unlawful.

26. The Appellate Division reversed the Red Bank municipal court and held that Mr. Carter should have been acquitted of failing to properly signal.

27. The Appellate Division remanded the remaining charges for retrial.

28. After the remand, the State voluntarily dismissed all charges.

29. At all times, Officer Doremus acted within the scope of his employment and under the color of state law.

COUNT I
FEDERAL CAUSE OF ACTION
42. U.S.C. § 1983 MALICIOUS PROSECUTION – FOURTH AMENDMENT

30. Plaintiff repeats and realleges the preceding paragraphs as though set forth at length herein.

31. Officer Doremus lacked probable cause for the vehicle stop.

¹ The Municipal Court erroneously believed that it witnessed an entirely separate failure to signal infraction on the motor vehicle recording device, prior to the time that Mr. Carter allegedly tailgated; however, the Appellate Division determined that there was no legal or factual basis for the finding, which was not supported by witness testimony. The Appellate Division entered judgment of acquittal for Mr. Carter on this count. It remanded the matter for trial with respect to the remaining charges, the outcome of which would largely hinge on a determination of Officer Doremus' good faith in charging Mr. Carter with obstruction, as good faith on the part of the officer is an element of the offense.

32. Officer Doremus lacked any reasonable and articulable suspicion that any driving infraction or criminal offense had been committed by Mr. Carter.

33. Officer Doremus lacked probable cause for issuing the Charges.

34. Officer Doremus lacked reasonable suspicion or probable cause to charge Mr. Carter with the driving offense of following too closely.

35. Officer Doremus lacked reasonable suspicion or probable cause to charge Mr. Carter with the driving offense of failure to signal.

36. Officer Doremus, lacking a factual basis to stop Mr. Carter, lacked reasonable suspicion or probable cause to demand Mr. Carter's driving credentials, or to charge Mr. Carter with obstruction. Officer Doremus had no good faith basis for the stop or the charges that he issued.

37. Defendants acted with malice in prosecuting the Charges against Mr. Carter.

38. Defendants intentionally brought the Charges against Mr. Carter without a truthful or good faith factual basis.

39. Defendants initiated the criminal proceedings against Mr. Carter maliciously and in willful and wanton disregard of Mr. Carter's rights.

40. Mr. Carter suffered an unlawful seizure in the course of the initiation of the Charges.

41. As a result of Defendant's actions, Mr. Carter suffered damages including but not limited to time spent in custody, humiliation, physical and mental suffering, distress, embarrassment, impairment to social and business standing and attorney fees and costs.

WHEREFORE, Plaintiff respectfully prays that judgment be entered by the Court in its favor and against the Defendant, to include:

(a) Compensatory Damages;

(b) Punitive Damages,

- (c) Attorney Fees and Costs; and
- (d) Such other and further relief as the Court deems just and proper.

COUNT II

FEDERAL CAUSE OF ACTION

42. U.S.C. § 1983 FABRICATION OF EVIDENCE – FOURTEENTH AMENDMENT

42. Plaintiff repeats and realleges the preceding paragraphs as though set forth at length herein.

43. Officer Doremus fabricated the premise for the vehicle stop.

44. Officer Doremus' basis for stopping Mr. Carter's vehicle was false.

45. Officer Doremus used this fabricated evidence to issue Charges against Mr. Carter.

46. Officer Doremus lacked probable cause for issuing the Charges.

47. Defendants used the fabricated evidence at Mr. Carter's municipal trial.

48. Mr. Carter could not have been convicted by Defendant Red Bank without the fabricated evidence.

49. Defendants acted maliciously and in willful and wanton disregard of Mr. Carter's rights.

50. As a result of Defendant's actions, Mr. Carter suffered damages including but not limited to time spent in custody, humiliation, physical and mental suffering, distress, embarrassment, impairment to social and business standing and attorney fees and costs.

51. The above-described actions of Defendants were so malicious, intentional and reckless and displayed such a reckless indifference to Mr. Carter's rights and well-being, that the imposition of punitive damages is warranted.

WHEREFORE, Plaintiff respectfully prays that judgment be entered by the Court in its favor and against the Defendant, to include:

- (e) Compensatory Damages;
- (f) Punitive Damages,
- (g) Attorney Fees and Costs; and
- (h) Such other and further relief as the Court deems just and proper.

COUNT III

**NEW JERSEY STATE CAUSE OF ACTION
MALICIOUS PROSECUTION**

52. Plaintiff repeats and realleges the preceding paragraphs as though set forth at length herein.

53. Officer Doremus lacked probable cause for the vehicle stop.

54. Officer Doremus lacked any reasonable and articulable suspicion that an offense was committed by Mr. Carter.

55. Officer Doremus lacked probable cause for issuing the Charges.

56. Officer Doremus lacked reasonable suspicion or probable cause to charge Mr. Carter with the driving offense of following too closely.

57. Officer Doremus lacked reasonable suspicion or probable cause to charge Mr. Carter with the driving offense of failure to signal.

58. Officer Doremus, lacking a factual basis to stop Mr. Carter, lacked reasonable suspicion or probable cause to demand Mr. Carter's driving credentials, or to charge Mr. Carter with obstruction. Officer Doremus had no good faith basis for the stop or the charges that he issued.

59. Defendants acted with malice in prosecuting the Charges against Mr. Carter.

60. Defendants intentionally brought the Charges against Mr. Carter without justification or excuse.

61. Defendants initiated the criminal proceedings against Mr. Carter maliciously and in willful and wanton disregard of Mr. Carter's rights.

62. As a result of Defendant's actions, Mr. Carter suffered damages including but not limited to time spent in custody, humiliation, physical and mental suffering, distress, embarrassment, impairment to social and business standing and attorney fees and costs.

WHEREFORE, Plaintiff respectfully prays that judgment be entered by the Court in its favor and against the Defendant, to include:

- (i) Compensatory Damages;
- (j) Punitive Damages,
- (k) Attorney Fees and Costs; and
- (l) Such other and further relief as the Court deems just and proper.

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Attorneys for Plaintiff, Brian Carter

Dated: July 11, 2018

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury of all issues so triable.

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Dated: July 11, 2018